

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL WRIT PETITION NO. 4373 OF 2019**

Vasant Balkrishna Dhatrak & Ors.

...Petitioners

***Versus***

The State of Maharashtra and Anr.

...Respondents

\*\*\*\*\*

Mr. Abhaykumar Apte for Petitioner.

Mrs. G.P. Mulekar, APP for Respondent – State.

\*\*\*\*\*

**CORAM : S.S. SHINDE, J.**

**DATE : 30<sup>th</sup> AUGUST 2019**

**P.C.:**

1. Heard learned counsel appearing for the Petitioners and learned APP appearing for the State. Learned counsel appearing for the Petitioner submits that, when actual recording of evidence has been commenced and all prosecution witnesses have been examined, and one defence witness has also been examined, the learned Trial Court was not justified in adding Section 326 of Indian Penal Code (for short “IPC”). It is submitted that, the medical officer was examined by the prosecution and accused have cross examined him, and his evidence would clearly show that, an ingredient of an offence punishable under Section 326 of IPC are not attracted, there was no reason for the Trial Court to add Section 326 of IPC.

2. On the other hand, learned APP appearing for the State submits that, the Trial Court keeping in view the medical evidence that the victim suffered grievous injury added Section 326 of IPC.

3. Upon hearing learned counsel appearing for the parties and perusal of reasons assigned by the Trial Court and also Sessions Court and in particular Paragraph 9 of the judgment of the Additional Sessions Court, Nashik, this Court is of the opinion that, reasons assigned by the said Court that, the victim has suffered grievous injuries, and therefore, it was appropriate on the part of Trial Court to add Section 326 of IPC, cannot be said to be perverse or contrary to record. As and when the Court will frame charge under Section 326 of IPC, the witnesses will be summoned including the medial officer, and the Petitioner will get an opportunity to cross examine the prosecution witnesses. In that view of the matter, no case is made out to cause interference in the impugned order. Hence, with the above observations, writ petition stands rejected.

**(S.S. SHINDE, J.)**